

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DUSTIN MARK FLYING,

Defendant.

**CR-10-05-BMM-01**

**ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS**

United States Magistrate Judge John Johnston entered Findings and Recommendations in this matter on November 20, 2017. (Doc. 84.) Neither party filed objections. When a party makes no objections, the Court need not review *de novo* the proposed Findings and Recommendations. *Thomas v. Arn*, 474 U.S. 140, 153-52 (1986). This Court will review Judge Johnston's Findings and Recommendations, however, for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

Judge Johnston conducted a final revocation hearing on October 23, 2017. (Doc. 80.) Flying admitted that he violated the conditions of his supervised release. (Doc. 84 at 1.) Flying violated the conditions of his supervised release by 1) committing a new crime on February 4, 2017; 2) failing to report for random urinalysis testing on January 29, 2017; 3) failing to report for mental health treatment on January 27, 2017; and 4) associating with a convicted felon on February 4, 2017. (Doc. 84 at 1-2). Flying denied any conduct relating to events in Judith Basin County in the first alleged violation. *Id.* at 3. The United States did not put on evidence regarding this allegation. Judge Johnston recommends that the Court revoke Flying's supervised release. *Id.* at 4. Further, Judge Johnston has recommends that Flying be sentenced to fourteen months imprisonment to run consecutive with his current term of state imprisonment in Tenth Judicial District Court, Judith Basin County, DC-2017-02. *Id.* at 5. Judge Johnston further recommends no term of supervised release to follow. *Id.*

The Court finds no clear error in Judge Johnston's Findings and Recommendations. Flying's violations of his conditions represent a serious breach of the Court's trust. The sentenced imposed, represents a sufficient, but not greater than necessary sentence.

Accordingly, **IT IS ORDERED** that Judge Johnston's Findings and Recommendations (Doc. 84) is **ADOPTED IN FULL**.

**IT IS FURTHER ORDERED** that Defendant Dustin Mark Flying be sentenced to fourteen months imprisonment to run consecutive with his current term of state imprisonment, Tenth Judicial District Court, Judith Basin County, DC-2017-02, followed by no term of supervised release.

DATED this 5th day of December, 2017.



---

Brian Morris  
United States District Court Judge